UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

THOMAS A. DORSEY, Pro Se
Petitioner,

v.

CHARLES T. FELTS, Warden, et. al.,
Respondent.

5:06-0094
Case No. T.B.A.

EMERGENCY MOTION SEEKING INJUNCTION AND ORDER TO TRANSFER PETITIONER FROM FEDERAL CORRECTIONAL INSTITUTION BECKLEY TO FEDERAL MEDICAL CENTER ROCHESTER DUE TO DIAGNOSED TERMINAL MEDICAL CONDITION

AND NOW comes the petitioner, Thomas A. Dorsey, Pro Se, and respectfully moves this Honorable Court for an Order, pursuant to Title 18 U.S.C.A. § 3142, directing the United States Marshal's Service transfer the petitioner from Federal Correctional Institution Beckley, Beaver, West Virginia, to Federal Medical Center Rochester, Rochester, Minnesota.

In support thereof, Petitioner Dorsey states as follows:

1. On November 1, 2000, pursuant to his prior plea of guilty to the charge of possession of an unregistered short barreled shotgun, in violation of 26 U.S.C. § 5861(d), § 5871, and § 5845(a)(2), the U.S. District Court Judge sitting in the

District of Wyoming, sentenced Petitioner Dorsey to a term of 120 months imprisonment per criminal case number 00CR0054-D.

2. Shortly thereafter, Petitioner was transported by the United States Marshal's Service to the Federal Bureau of Prisons, specifically Federal Correctional Institution - Beckley, located in Beaver, West Virginia 25813.

3. Subsequent to my medical intake screening by medical personnel at F.C.I. Beckley, I was diagnosed by prison physician(s) as being in "Active" Advanced Stage Four cirrhosis of the liver and Hepatitis C virus in June of 2005. It was further concluded that I had approximately six months to live, plus or minus guarded.

4. Since that time, my overall medical condition has rapidly deteriorated. On July 25, 2005, my condition worsened to the point that F.C.I. Beckley correctional officers transported me to the Appalachian Regional Health, Inc., otherwise known as Beckley - ARH Hospital, 306 Stanaford Road, Beckley, West Virginia 25801. Due to the fact Petitioner Dorsey was experiencing excessive bloating in the stomach, requiring "drainage", he was promptly admitted by hospital personnel. This would prove to be the first of many forthcoming unscheduled, necessary medical admissions at Beckley - ARH Hospital for Petitioner. As Dorsey's condition becomes alarmingly critical, the trips to the hospital become more frequent and the period of hospitalization

become longer. Simply put, Petitioner Dorsey is dying, and the medical facilities at F.C.I. Beckley are neither equipped nor qualified to administer the necessary medical treatment required of a terminally ill inmate.

5. Petitioner was initially examined at Beckley - ARH Hospital by attending physician Surayia T. Hasan, M.D. on July 25, 2005. It was determined by DR. Hasan that Petitioner's condition dictated immediate admission where a battery of necessary test(s) could be conducted. Petitioner was again seen by Dr. S. Hasan, M.D. on the 26th, 27th, and 28th of July, 2005. In an effort to eliminate repetition and redundancy, please see **Exhibit "A"** for a complete overview and concise details regarding Petitioner's terminal medical condition.

6. Since the original diagnosis by F.C.I. Beckley medical personnel and other known and unknown physician(s) employed at Beckley - ARH Hospital, Petitioner has been **repeatedly** transported by F.C.I. Beckley correctional officers for admission to Beckley - ARH Hospital for the treatment of his terminal illness. These "admissions" of Dorsey are now at the point of occurring every other week. Petitioner Dorsey is dying and should be housed and treated in a federal meducal center such as F.M.C. Rochester, Rochester, Minnesota. It is absurd and ridiculous to continue running Dorsey back and forth, to and from the hospital every other week. It is a well-established and documented fact that the medical staff at F.C.I. Beckley

cannot properly treat Petitioner's known medical needs for a terminal illness. The staff at F.C.I. Beckley are well aware of this fact, but unfortunately, continue to turn a "blind eye" to Dorsey's dilemma.

7. Petitioner Dorsey respectfully avers there would be no need for these ceaseless, unremitting and unscheduled trips to ARH Hospital if he were transferred to the Federal Medical Center Rochester, Rochester, Minnesota. Obviously, medical personnel and executive staff at F.C.I. Beckley are clearly demonstrating a "deliberate indifference" to Petitioner's well-documented medical needs, and simultaneously wasting thousands of taxpayer dollars. Both of these problems could be rightfully eliminated with an Order from this Honorable Court transferring Petitioner to F.M.C. Rochester, Minnesota.

8. Prison officials at F.C.I. Beckley are deliberately, wilfully and intentionally allowing Petitioner's terminal liver disease to accelerate at a much faster rate of deterioration by failing to provide adequate full-time medical care available at F.M.C. Rochester, Minnesota. Simply put, BOP officials are just waiting for Petitioner to die, and uncompassionately allowing him to unduly suffer in the process.

9. Petitioner Dorsey is in dire need of full-time qualified medical care, that of which is not available at F.C.I. Beckley.

10. On information and belief provided to this petitioner, I have been repeatedly advised by F.C.I. Beckley medical administrators and staff that my transfer to F.M.C. Rochester had been approved by the Bureau of Prisons. If this alleged information were in fact true, BOP correctional officers would not be obligated to transport me to Beckley - ARH Hospital every other week for required and necessary treatment just to keep me alive.

11. Petitioner Dorsey respectfully submits that his terminal medical disease is at the critical stages that undeniably mandate a transfer to F.M.C. Rochester, Minnesota, where properly trained medical staff can provide the care Petitioner's illness demands.

12. The actions, and more importantly, the inactions of F.C.I. Beckley executive staff and medical staff, with respect to Petitioner's terminal illness and transfer, are appalling, unconscionable and inexcusable. Petitioner Dorsey's days are numbered, and the staff who can make the necessary arrangements for a medical transfer just don't care. In a nutshell, they (staff) are just waiting for Petitioner to die, enabling them to "wash their hands" of the entire situation.

CONCLUSION

WHEREFORE, for the meritorious reasons contained herein, Petitioner Dorsey moves and prays this Honorable Court shows mercy upon Petitioner and issue the requested **ORDER** to have the U.S. Marshal's Service promptly transport same to the Federal Medical Center Rochester, Rochester, Minnesota for treatment.

Done this 3rd day of February, 2006.

Respectfully submitted,

THOMAS A. DORSEY, Pro Se
Reg. No. 06784-091
F.C.I., Beckley
P.O. Box 350 Pine Unit
Beaver, WV 25813

APPALACHIAN REGIONAL HEALTHCARE, INC.
Beckley-ARH Hospital
306 Stanaford Road
Beckley, WV 25801

Discharge Summary

Patient:	DORSEY, THOMAS	Patient #:	288991
Attending Physician:	Surayia T. Hasan, M.D.		
Service:	Medicine	Discharge Date:	7/28/05
Admission Date:	7/25/05	Transcription Date:	7/28/2005
Dictation Date:	7/28/2005 10:16 AM	Transcription Time:	11:11:55 AM

DISCHARGE DIAGNOSES

1. Massive ascites with peripheral edema due to cirrhosis of the liver from previous alcohol abuse and hepatitis C, associated with hypersplenism and low platelet count.
2. History of alcohol and drug abuse in the past.
3. Hepatitis C from drug abuse.
4. Gallstones and sludge in the gallbladder on ultrasound.

HISTORY OF PRESENT ILLNESS

This middle-age, Caucasian male was admitted because of swelling of the legs and development of ascites. **Please incorporate the Admission History and Physical Examination into the Discharge Summary as part of the Discharge Summary.**

DIAGNOSTIC STUDIES

WBC 3,700; RBC 0.55; hemoglobin 12.1; hematocrit 35; MCV 98; MCH 34; MCHC 34; platelet count 56,000; segs 65%; lymphocytes 19%; monocytes 10.2; eosinophils 4.9; sodium 142; potassium 4.1; chloride 109; BUN 15; serum creatinine 0.7; total protein 6.1; albumin 2; calcium 7.7 secondary to low albumin. SGOT 82; bilirubin 2.8; alkaline phosphatase 162; ammonia level 43; INR 1.8. Repeat platelet count is 56,000. Hepatitis profile is positive for hepatitis C. Peritoneal fluid negative for malignancy. CEA level in the ascitic fluid is 0.28. Drug screen is negative. Glucose in the ascetic fluid is 142; LDH 31; protein less than 2. WBC 58; RBC 1,830; 14% neutrophils; 70% lymphocytes.

X-ray of the chest showed no acute cardiopulmonary disease. Ultrasound of the abdomen showed small echogenic liver. Splenomegaly and moderate amount of abdominal ascites, consistent with cirrhosis of the liver. Cholelithiasis and sludge in the gallbladder; normal caliber common bile duct. CT-guided paracentesis drew 4,060 cc of ascetic fluid. The ascetic fluid was clear.

HOSPITAL COURSE

The patient was admitted to the floor. He had paracentesis, which showed the fluid to be transudate with no increased WBC's. The patient was treated with IV Lasix, spironolactone and lactulose. He was seen in consultation by Dr. Siddiqi who agreed that the patient has cirrhosis of the liver secondary to alcohol abuse and hepatitis C. He is being discharged back to the prison with the advice to take spironolactone 50 mg twice a day; Lasix 60 mg daily. He is to stay on no added salt diet. Lactulose 1 ounce b.i.d. He is to restrict the fluids to about 1,000 cc per 24 hours. He lost his weight from 202 pounds at the time of admission down to

D. McLAIN D.O., CLINICAL DIRECTOR
FCI/FRC BECKLEY
BEAVER, WV

187 pounds. His condition at the time of discharge is stable. His long-term prognosis is guarded.

Surayia T. Hasan, M.D.

Job #: 390707

Attachment: Admission History and Physical Examination.

D. McLAIN D.O., CLINICAL DIRECTOR
FCI/FPC BECKLEY
BEAVER, WV
7-29-05

APPALACHIAN REGIONAL HEALTHCARE, INC.
Beckley-ARH Hospital
306 Stanaford Road
Beckley, WV 25801

History and Physical Examination

Patient:	Dorsey, Thomas	Patient #:	288991
Attending Physician:	Surayia Hasan, MD		
Service:	Medicine	Location:	418-1
Admission Date:	7/25/05	Transcription Date:	7/25/2005
Dictation Date:	7/25/2005 5:51 PM	Transcription Time:	8:43:59 PM

HISTORY OF PRESENT ILLNESS
This middle-aged Caucasian male has been admitted because of swelling of the legs and development of ascites. According to the patient, his legs started swelling up 2 weeks ago, followed by swelling in the abdomen. His abdomen has become extremely protuberant. He is very uncomfortable. He states he gets short of breath when he exerts. He was seen to the hospital today for further workup.

PAST HISTORY
History of alcohol abuse. He states he drank heavily for about 10 years. He has history of methamphetamine shooting, which he was doing until a few years ago. He had lipid profile done recently and it has been reported positive for hepatitis C, but he states when he went into prison a few years ago his hepatitis profile was negative. He is heterosexual.

FAMILY HISTORY
No significance.

PERSONAL HISTORY
Patient was in prison for several years. He smokes just a few cigarettes a day. He has not been drinking since he became incarcerated. No drugs.

REVIEW OF SYSTEMS
CONSTITUTIONAL: Weight is going up. He gained 20 pounds in the past 2 weeks.
EYES: No discharge.
RESPIRATORY: Short of breath with exertion.
CVS: No chest pain or palpitations.
GASTROINTESTINAL: Ascites.
MUSCULOSKELETAL: No history of arthritis.
INTEGUMENTARY: No bruises or varicosities.
GENITOURINARY: No difficulty in passing urine.
CNS: No history of cerebrovascular accident or seizures.
PSYCHIATRIC: Not confused or disoriented.
ENDOCRINE: No history of diabetes or thyroid disease.

PHYSICAL EXAMINATION
Patient is a middle-aged man sitting up in bed. He looks well. He is alert and oriented. There is 2+ pitting edema on both legs. JVP is not elevated. External jugular is distended. Weight

202 pounds. Height 5'9.5". Temperature 98.4. Respirations 20. Pulse 76. Blood pressure 124/72. No lymphadenopathy.
LYMPHATICS: No enlargement in the neck, axillae, and groins.
NECK: No masses. Thyroid not enlarged.
ABDOMEN: Extremely protuberant. Ascites. Liver and spleen cannot be palpated.
CVS: Apex beat in fifth interspace, midclavicular line. Heart sounds are regular and normal. No murmur is audible.
RESPIRATORY SYSTEM: Not short of breath or cyanotic. Breath sounds are vesicular with no inspiratory and expiratory wheeze.
CNS: The patient is alert. Responsive to questions. Can move both arms and both legs. Reflexes normal. Plantars downgoing. Superficial and deep sensations are intact.
MUSCULOSKELETAL: None of the joints are acutely inflamed.
GENITOURINARY: External genitalia normal. No tenderness over the bladder or in costovertebral angles.
PSYCHIATRIC: Alert and oriented. Judgment and memory are normal.

DIAGNOSTIC STUDIES
Sodium 142; potassium 4.1; chloride 109; BUN 115; creatinine 0.7; total protein 6.1; albumin 2; glucose 82; SGOT 82; alkaline phosphatase 162; SGPT 58. WBC 3,500; RBC 3.55; hemoglobin 12.1; platelets 56,000.

IMPRESSION
1. Massive ascites with peripheral edema, most likely due to cirrhosis from previous alcohol abuse with hypersplenism.
2. History of alcohol and drug abuse.
3. Positive for hepatitis C.

PLAN
The patient is admitted to the floor. He has been started on IV Lasix and spironolactone. Ammonia level is satisfactory. He is to have hepatitis profile. Ultrasound of the abdomen has been done, results not available. He is on lactulose. Patient is to be sent for paracentesis. The fluid is to be sent to the lab for cytology. Sugar, protein and alpha fetoprotein, CEA and culture and sensitivity. Will do a drug screen as well. Patient will need to the stay in the hospital for several days.

SURAYIA T. HASAN, M. D.
#387025

APPALACHIAN REGIONAL HEALTHCARE, INC.
Beckley-ARH Hospital
306 Stanaford Road
Beckley, WV 25801

Consultation

Patient:	DORSEY, THOMAS	Patient #:	288991
Requesting Physician:	Surayia T. Hasan, M.D.		
Consulting Physician:	Syed Siddiqi, M.D.		
Service:	Gastroenterology	Location:	418-1
Request Date:	07/27/05	Consult Date:	07/27/05
Reason for Consult:	Ascites and chronic liver disease.	Transcription Date:	7/27/2005
Dictation Date:	07/27/05 @ 07:34	Transcription Time:	3:44:21 PM

HISTORY OF PRESENT ILLNESS
This is a 53-year-old white male who was seen at the request of Dr. Hasan because of ascites. The patient stated that he has noticed for the past couple of months that his abdomen has started getting more swollen. He is also having some pain, especially when he breathes on the right side. He denied any nausea or vomiting. No hematemesis or rectal bleeding. He has not drank any alcohol, although he used to drink heavy before.

PAST MEDICAL HISTORY.
1) Remote history of alcohol abuse.
2) Cigarette abuse.
3) IV drug abuse.
4) History of hepatitis C.
5) Status post left cataract surgery with implant.
6) Status post motor vehicle accident and had left shoulder dislocation and left 6th rib fracture. He also apparently had L2 and L2 injury. He did not have surgery.

PERSONAL HISTORY
He is divorced. He said that he has cut down on smoking. He now smokes 3 cigarettes a day. He has not drank for the past 8 years, but he used to drink heavy.

FAMILY HISTORY
His mother and father are apparently healthy. No history of malignancy.

ALLERGIES
PENICILLIN and BEE STINGS.

CURRENT MEDICATIONS
1) Lasix;
2) Potassium chloride.

REVIEW OF SYSTEMS
CONSTITUTIONAL: No chills or fever. He says that he has gained weight because of fluid.
EYES: Denies drainage. He had left cataract surgery with implant.
EARS, NOSE, AND THROAT: No sinus drainage or sore throat. He is edentulous.
CARDIOVASCULAR: No exertional chest pain. No palpitation. No nocturnal dyspnea. No ankle swelling.
RESPIRATORY: No cough or expectoration. No shortness of breath or hemoptysis.
GASTROINTESTINAL: Appetite is fair. Weight is stable. Bowels are regular. No rectal bleeding or hematemesis.
GENITOURINARY: No hematuria, dysuria or flank pain.
MUSCULOSKELETAL: No joint pain or problem with ambulation.
NEUROLOGICAL: No headache or dizziness. No history of seizures.
INTEGUMENTARY: Denies knots or bumps on the skin.
PSYCHE: He denies being anxious or depressed. No suicidal ideations.
ENDOCRINE: No history of diabetes or thyroid problems.
HEMATOLOGICAL: He did have a blood transfusion when he had a motor vehicle accident.

PHYSICAL EXAMINATION
GENERAL: This is a middle-age white male, not in any distress.
VITAL SIGNS: Pulse 76/minute, regular; temperature normal; respirations 20; blood pressure 124/72; weight 202 pounds; height 5'9½".
HEAD AND EYES: Normocephalic. Pupils are equal bilaterally and reactive to light and accommodation. Fundi looked normal. He had left cataract with implant.
EARS, NOSE, AND THROAT: No obvious drainage from the ears or nose noted. Both ears are clean. He has upper and lower dentures. Throat was normal. No lesion in the nose noted.
NECK: No significant lesion. No thyromegaly. No lymphadenopathy. No masses felt.
RESPIRATORY SYSTEM: Breathing is nonlabored. Chest expanded equally bilaterally. Trachea in the midline. Breathing vesicular. Nil added.
CARDIOVASCULAR SYSTEM: Both heart sounds audible. No murmur appreciated. The heart is not enlarged clinically. He has chronic edema of both legs. Arterial pulses palpable and equal on both sides in the carotid, femoral, popliteal and pedal areas.
CHEST: Normal male breasts.
ABDOMEN: Distended. He has ascites. Liver is palpable at 2-3 mm. Spleen is enlarged about 4-5 cm below the costal margin. Bowel sounds normal.
RECTAL: Deferred at this time.
LYMPHATIC SYSTEM: No obvious lymphadenopathy in the neck, axillae, or groin appreciated.
GENITOURINARY: Normal male genitalia.
MUSCULAR SYSTEM: Joints bilaterally symmetrical. Range of movement is excellent. Joint stability is good. Muscle tone is normal.
SKIN: He has spider nevi and also chronic edematous changes in the skin of the lower legs. He does appear to be somewhat jaundiced.
NEUROLOGICAL SYSTEM: He is alert and awake. Cranial nerves intact. Reflexes are equal on both sides. No focal neurological deficit noted.
PSYCHE EVALUATION: Orientation x 3 is excellent. Judgment and memory are good. Mood is normal.

DIAGNOSTIC STUDIES

CBC on admission: Normal WBC; hemoglobin 12.5; hematocrit 35.1; platelets 66,000. BMP was normal. Albumin 2. Liver enzymes revealed: SGOT elevated; bilirubin 2.8; alkaline phosphatase 162; ammonia level 43. INR was normal. PT was normal. PTT was somewhat elevated. Body fluid showed **1830** RBC; neutrophils 14%; 70 lymphocytes; 16 monocytes; WBC 50. Repeat BMP was normal. Repeat liver panel today showed: Albumin 1.8; alkaline phosphatase 140; SGOT 73; bilirubin 3.5; direct bilirubin 1.31; total protein 5.8.

Chest x-ray showed no acute cardiopulmonary disease noted; elevated right hemidiaphragm; old right rib fracture deformity. Ultrasound of the abdomen showed a small echogenic liver, splenomegaly and moderate abdominal ascites, consistent with liver cirrhosis; cholelithiasis and sludge in the gallbladder, normal caliber common bile duct; generous size unobstructed kidneys; elevated right renal resistive index.

IMPRESSION/PLAN

1) The patient obviously has cirrhosis, secondary to chronic liver disease. He has history of alcohol abuse, probably alcoholic cirrhosis. He also has hepatitis C positive by history. Fluid had been drained yesterday, 4 liters removed. The studies are awaited. I had a long discussion with him about restricting his fluid intake. Will put him on 1000 cc per 24 hours. Instead of drinking a lot of water, he should suck on ice chips, but not excessively, so that total fluid intake is removed within 1 liter. I agree with Lasix and Inderal small doses as a primary prophylaxis for possible varices. He was started on spironolactone and Lactulose. Obviously, he needs aggressive treatment of his ascites. I explained to him that he can help by restricting his water and avoiding alcohol.
2) Cigarette abuse. We advised him to stop smoking.
3) History of hepatitis C. Will let Dr. Hasan follow for this. Because of cirrhosis, he is probably not a candidate for hepatitis C treatment. Will check hepatitis A, B and C again. If A and B are negative, he should get a vaccination against A and B.
4) Other diagnoses as mentioned.

Thank you for the consultation. I will follow him with you.

Syed Siddiqi, M.D.

Job #388888

CC: Surayia T. Hasan, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Emergency Motion Seeking Injunction
(name of pleading) AND Order

was mailed/delivered to CHARLES T. FELTS, WARDEN
(name of defendant(s) or defendant's attorney) FCI BECKLEY

at 1600 Industrial Park Rd., Beaver, WV 25813 (Address)

on 3 February, 19 2006.
(Date)

Dear Office of the Clerk:

Please attach this Certificate of Service to the accompanying motions located in the legal size MANILA envelope that are arriving VIA U.S. Mail on the same Day simultaneously with this letter. Please forgive the oversight, I just wanted the Court to be cognizant of the fact I perfected service on the above named defendant. Thank you!

Respectfully submitted,